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Extension of the term of the permanent judges of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Identical letters dated 25 August 2006 from the Secretary-General to the President of the General Assembly and the President of the Security Council

I would like to inform you of a request dated 24 August 2006 from the President of the International Criminal Tribunal for Rwanda that directly relates to its ability to implement its Completion Strategy (see annex). The President has requested that Judge Solomy Balungi Bossa, a national of Uganda, be authorized to continue to serve in Case No. ICTR-98-42, the *Butare* trial, which is expected to continue into 2007.

Judge Bossa was elected by the General Assembly as an ad litem judge on 25 June 2003 for a term of four years, that is to say, until 24 June 2007. I subsequently appointed her to serve as an ad litem judge in the *Ndindabahizi* trial effective 28 August 2003 and then in the *Butare* trial effective 20 October 2003. The *Butare* trial is ongoing and is expected to continue into 2007.

However, article 12 ter, paragraph 2, of the statute of the International Tribunal provides that:

> During their term, ad litem judges will be appointed by the Secretary-General, upon request of the President of the International Tribunal for Rwanda, to serve in the Trial Chambers for one or more trials, for a cumulative period of up to, but not including, three years.

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As Judge Bossa was appointed as an ad litem judge effective 28 August 2003 and has served at the International Tribunal on a full-time basis since that time, the cumulative period of service during which she is allowed to serve in trials as provided for under article 12 ter, paragraph 2, will come to an end very soon. The President also expects that the *Butare* trial will continue beyond 24 June 2007.

Consequently, the approval of the Security Council as the parent organ of the International Tribunal and the General Assembly as the organ that elects its judges is needed effective 28 August 2006 in order to allow Judge Bossa to continue to serve in the *Butare* trial until its completion.

I am sure that you will agree that it is highly desirable that every effort be made to ensure that the International Tribunal remains in the best position to meet the target dates in its Completion Strategy. Allowing Judge Bossa to continue to serve in the *Butare* case until its completion will definitely assist in achieving that objective.

I should therefore like to propose that the Security Council and the General Assembly authorize Judge Bossa to continue to serve as Judge in the *Butare* trial until its completion, notwithstanding the provisions of article 12 ter, paragraph 2, and the fact that by doing so she may be exceeding her elected term as an ad litem judge.

In accordance with General Assembly resolution 57/289, should the cumulative period of service of ad litem judges amount to three years or more, this will not result in any change in their entitlements and benefits and, in particular, will not give rise to any additional entitlements or benefits other than those that already exist and which will, in such an eventuality, be extended pro rata by virtue of the extension of their service.

I should accordingly be most grateful if you would bring the present letter to the immediate attention of the members of the General Assembly and of the Security Council in order that they might take appropriate action on this matter as soon as possible.

(Signed) Kofi A. **Annan**

Annex

Letter dated 24 August 2006 from the President of the International Criminal Tribunal for Rwanda to the Secretary-General

According to article 12 ter, paragraph 1 (e), of the statute of the International Criminal Tribunal for Rwanda, ad litem judges shall be elected for a term of four years. Their term of office expires on 24 June 2007. In my letter to you of 23 August 2006, I requested an extension until the end of 2008 of the term of the 18 ad litem judges of the International Criminal Tribunal instead of proceeding to elections for four years. Reference was made to Security Council resolution 1684 (2006) which extended the term of office for 11 permanent judges of the International Criminal Tribunal until the end of 2008 and General Assembly decision 60/422 of 28 June 2006 which endorsed your recommendation to extend the term of these permanent judges. The reason for this was to ensure the continuity, stability and certainty necessary for the efficient and effective planning of trials and to enable the International Criminal Tribunal to meet the 2008 deadline set out in Council resolution 1503 (2003).

Article 12 ter, paragraph 2, provides that during their term, the ad litem judges will be appointed by the Secretary-General to serve in the Trial Chambers for a cumulative period of up to, but not including, three years. In my letter, I mentioned that there is a need to dispense with this three-year period. One main reason is that six judges are currently engaged in multi-accused trials which they have to complete. Otherwise, these cases would have to start de novo when these judges' three-year period ends. Secondly, it may be necessary to use serving ad litem judges in other trials, as they have acquired significant institutional knowledge.

In connection with the first reason, the need to extend the term of judges currently involved in multi-accused cases, my letter mentioned as an illustration the situation of Judge Solomy Balungi Bossa (Uganda), who was appointed with effect from 28 August 2003. She is currently involved in the *Butare* trial, which will continue in 2007. This is a particularly complex trial, involving six accused. It would have extremely serious consequences for the Completion Strategy of the International Criminal Tribunal if this case had to start de novo. Furthermore, it is important to ensure the steady progress of this trial, in which the Chamber is currently hearing the evidence of the third of the six accused.

As Judge Bossa's three-year period expires on 28 August 2006, a solution must be found for her as soon as is practically possible. It is essential to ensure that the trial does not stop. I am therefore requesting that the Security Council extend, as an emergency measure, the term of Judge Bossa for the remainder of the *Butare* trial, pending its consideration of the more general request for extension of the terms of the 18 ad litem judges of the International Criminal Tribunal.

It would be appreciated if you would transmit the present letter to the President of the Security Council for consideration and necessary action.

(*Signed*) Erik **Møse**
President